

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DAVID JONES,	:	
Plaintiff,	:	Case No. 3:04cv00005
vs.	:	District Judge Thomas M. Rose
		Magistrate Judge Sharon L.
Ovington	:	
MONTGOMERY COUNTY	:	
DISTRICT ATTORNEY, <i>et al.</i> ,	:	
Defendants.	:	
	:	

DECISION AND ENTRY

The Court has reviewed *de novo* the Report and Recommendation filed on July 11, 2006 (Doc. #57) and the Supplemental Report and Recommendations filed on August 1, 2006 (Doc. #61) by United States Magistrate Judge Sharon L. Ovington, to whom this case was originally referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby adopts said Report and Recommendations and Supplemental Report and Recommendations. It is therefore **ORDERED** that:

1. The Report and Recommendations (Doc. #57) is ADOPTED in full, and consequently Defendant Police Officers' Motion to Dismiss (Doc. #47) is DENIED;
2. The Supplemental Report and Recommendations filed on August 1, 2006 (Doc. #61) is ADOPTED in full and consequently:

- A. The Report and Recommendations filed on July 11, 2006 (Doc. #58) is ADOPTED as modified by the Supplemental Report and Recommendations (Doc. #61);
- B. Defendant City of Dayton's Motion for Judgment on the Pleadings (Doc. #49) is GRANTED;
- C. Defendant City of Dayton's Motion to Quash Service on Kurt Smolek (Doc. #49) is GRANTED, and Plaintiff's claims against Kurt D. Smolek are DISMISSED without prejudice.

August 21, 2006

***s/THOMAS M. ROSE**

Thomas M. Rose
United States District Judge